

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MOONBUG ENTERTAINMENT
LIMITED, et al.,

Plaintiffs,

v.

BABYBUS (FUJIAN) NETWORK
TECHNOLOGY CO., LTD, et al.,

Defendants.

Case No. [21-cv-06536-EMC](#)

**ORDER RE WITNESS DISCLOSURES
AND CROSS DISCLOSURES AND
DEPOSITION DESIGNATIONS AND
COUNTERDESIGNATIONS FOR JULY
17, 2023**

Docket Nos. 513, 514, 521, 522, 523, 526,
527, 529

The Court has reviewed Plaintiffs' witness disclosures, Defendants' witness cross disclosures, Plaintiffs' deposition designations, and Defendants' deposition counter-designations, as well as the parties' objections. The Court makes the following rulings.

IT IS SO ORDERED.

Dated: July 17, 2023



EDWARD M. CHEN
United States District Judge

DEFENDANTS' OBJECTIONS TO PLAINTIFFS' WITNESS DISCLOSURES

The Court reviewed Defendants' objections and addresses them below.

Witnesses	Trial Exhibit No.	D's Objections	Court's Rulings
[no sponsoring witness listed]	<p>2022-06-06 BabyBus' Amended and Supplemental Responses to Moonbug's First Set of RFAs</p> <p>RFA 32 and First Supplemental Response to RFA 32 (excluding objections)</p> <p>["Admit that between July 20, 2021 and September 28, 2021, you edited one or more videos on one or more of Your Super JoJo YouTube channels." Admitted.]</p> <p>RFA 33 and First Supplemental Response to RFA 33 (excluding objections)</p> <p>["Admit that between July 20, 2021 and September 28, 2021, you replaced one or more of Your videos on one or more of Your Super JoJo YouTube channels with a different Super JoJo video." Admitted.]</p> <p>RFA 34 and First Supplemental Response to RFA 34 (excluding objections)</p> <p>["Admit that between July 20, 2021 and September 28, 2021, you took one or more actions to avoid or prevent issuance of strikes by YouTube against Your Super JoJo YouTube channels or account." Admitted.]</p> <p>RFA 44 and First Supplemental Response to</p>	402, 403, cumulative	<p>OVERRULED-IN-PART and SUSTAINED-IN-PART. The Court will admit the responses that are admissions; the Court will exclude the responses that are denials.</p> <p>Moonbug intends to renew moving Exhibits 84–86, 807–808, 813, 816, 822, 825, 828, 831, 834, 837, and 840 into evidence. Moonbug had previously attempted to enter these into evidence as a group, but the Court denied that without prejudice.</p>

1	RFA 44 (excluding objections)		
2	["Admit that Your "The		
3	Boo Boo Song" video		
4	(previously available at,		
5	e.g.,		
6	https://www.youtube.com/		
7	watch?v=qQY1sn9iSME) is		
8	substantially similar to the		
9	CoComelon video called		
10	"The Boo Boo Song"		
11	(available at, e.g.,		
12	https://www.youtube.com/		
13	watch?v=3YltYCrPZos)." Denied.]		
14	RFA 45 and First		
15	Supplemental Response to		
16	RFA 45 (excluding		
17	objections)		
18	["Admit that Your "The		
19	Boo Boo Song" video		
20	(previously available at,		
21	e.g.,		
22	https://www.youtube.com/		
23	watch?v=qQY1sn9iSME)		
24	includes specific frames		
25	that are substantially similar		
26	to specific frames in the		
27	CoComelon video called		
28	"The Boo Boo Song"		
	(available at, e.g.,		
	https://www.youtube.com/		
	watch?v=3YltYCrPZos)." Denied.]		
	RFA 56 and First		
	Supplemental Response to		
	RFA 56 (excluding		
	objections)		
	["Admit that Your "Yes		
	Yes Vegetables Song"		
	video (previously available		
	at, e.g.,		
	https://www.youtube.com/		
	watch?v=Qw6PKaGbfqk)		
	is substantially similar to		
	the CoComelon video		
	called "Yes Yes Vegetables		
	Song" (available at, e.g.,		
	https://www.youtube.com/		
	watch?v=ohHYABXMqUQ		
)." Denied.]		

1	RFA 57 and First Supplemental Response to RFA 57 (excluding objections)		
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4	["Admit that Your "Yes Yes Vegetables Song" video (previously available at, e.g.,		
5	https://www.youtube.com/watch?v=Qw6PKaGbfqk)		
6	includes specific frames that are substantially similar to specific frames in the CoComelon video called		
7	"Yes Yes Vegetables Song" (available at, e.g.,		
8	https://www.youtube.com/watch?v=ohHYABXMqUQ		
9].” Denied.]		
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11	RFA 58 and First Supplemental Response to RFA 58 (excluding objections)		
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14	["Admit that Your "Swimming Song" video (previously available at, e.g.,		
15	https://www.youtube.com/watch?v=Cny_2QWxoe0)		
16	is substantially similar to the CoComelon video called "Swimming Song" (available at, e.g.,		
17	https://www.youtube.com/watch?v=CezgTNwk1-s)." Denied.]		
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21	[no sponsoring witness listed]	2022-10-21 BabyBus' Fifth Amended and Supplemental Responses to Moonbug's First Set of Interrogatories	402, 403, 106 – Designation should include p. 10:12-22
22		Interrogatory No. 3 and Second Supplemental Response to Interrogatory No. 3, p. 10 line 23 – p. 10 line 12	OVERRULED. But JUDGMENT RESERVED as to incompleteness question; proposed additional testimony not provided to Court.
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1	showing, or otherwise relating to CoComelon that		
2	You or any Person acting on Your behalf accessed,		
3	watched, reviewed, or considered before or during the development of any		
4	Super JoJo character or video.”		
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6	“BabyBus identifies the following documents it has produced: Exhibits 23, 251,		
7	333, 351, 356, 357, 366, 396, 403, 412, 413, 418,		
8	419, 421.”]		
9	Interrogatory No. 3 and Third Supplemental Response to Interrogatory		
10	No. 3, p. 11 line 23 – p. 12 line 26		
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12	["In accordance with Rule 33(d) of the Federal Rules of Civil Procedure,		
13	BabyBus refers Plaintiffs to the following documents: Exhibits 690 and 691.”]		
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16	[no sponsoring witness listed]	2022-10-21 BabyBus’ Fifth Amended and Supplemental Responses to Moonbug’s Third Set of Interrogatories	Page 5 at 23 to page 6 at 8 – 402, 403, not evid.
17		Interrogatory No. 14 and Response to Interrogatory No. 14	Page 6 at 33-15 - 402, 403
18		["Separately, for each of the Accused Videos and for each revenue source attributable to Your publishing and distribution of each Accused Video, state the gross revenues (a) received annually in connection with the reproduction, distribution, display, performance, sale, or other exploitation of the video and (b) expected to be received in the next five (5) years in connection with the reproduction,	Page 6 at 19-20 – 402, 403, not evid.
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	<p>distribution, display, performance, sale, or other exploitation of the video.”]</p> <p>Interrogatory No. 14 and First Supplemental Interrogatory No. 14</p> <p>[“BabyBus identifies the following documents it has produced: Exhibits 84–86, 807–808, 813, 816, 822, 825, 828, 831, 834, 837, and 840.”]</p>		
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PLAINTIFFS’ OBJECTIONS TO DEFENDANTS’ WITNESS CROSS DISCLOSURES

None received.

PLAINTIFFS’ OBJECTIONS TO DEFENDANTS’ WITNESS DISCLOSURES

The Court reviewed Plaintiffs’ objections and addresses them below.

Witnesses	Trial Exhibit No.	D’s Objections	Court’s Rulings
Samreen Ghani	<p>The parties indicate that they will continue to meet and confer and file a supplemental submission regarding any outstanding objections on July 16, 2023.</p> <p>Generally, the Court SUSTAINS the 402/403 objections as to the Candle Media acquisition of Moonbug, Moonbug’s interest in Asia, and Moonbug’s acquisition overtures to Babybus; the Court OVERRULES the 402/403 objections as to the remainder of the disclosures concerning the acquisition of Treasure Studios and due diligence in connection therewith as relevant. The Court rules as indicated in the attached document.</p>		
Patrick Reese	<p>The parties indicate that they will continue to meet and confer and file a supplemental submission regarding any outstanding objections on July 16, 2023.</p>		
Denise Denson	2095 (BB_00061186-BB00071009) (YouTube Analytics)	<p>This “exhibit” is a zip file that includes over 9,000 separately produced documents.</p> <p>In the range disclosed by Defendants, the following were not disclosed as materials considered by Ms. Denson: BB_00061567-</p>	SUSTAINED, to the extent that Ms. Denson did not consider these in her expert report.

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		BB_00070505; BB_00070514- BB_00070529; BB_00070538- BB_00070553; BB_00070578- BB_00070673; BB_00070682- BB_00070729; BB_00070738- BB_00070785; BB_00070802- BB_00070849; BB_00070858- BB_00070881; BB_00070890- BB_00070905; BB_00070914- BB_00070945; BB_00070970- BB_00070977; BB_00070986- BB_00070993.	
Denise Denson	3015 (BB_00096378- BB00097547) (Super JoJo Screen Tags)	<p>This “exhibit” is a zip file that includes over 1,000 separately produced documents.</p> <p>In the range disclosed by Defendants, the following were not disclosed as materials considered by Ms. Denson: BB_00096380- BB_00096391; BB_00096394- BB_00096397; BB_00096406- BB_00096411; BB_00096414- BB_00096415; BB_00096426- BB_00096427; BB_00096436- BB_00096437; BB_00096440- BB_00096441; BB_00096448- BB_00096449; BB_00096458- BB_00096459; BB_00096466- BB_00096471; BB_00096478-</p>	SUSTAINED, to the extent that Ms. Denson did not consider these in her expert report.

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		BB_00096715; BB_00096724- BB_00096727; BB_00096732- BB_00096735; BB_00096738- BB_00096741; BB_00096744- BB_00096745; BB_00096754- BB_00096755; BB_00096776- BB_00096779; BB_00096786- BB_00096791; BB_00096796- BB_00096797; BB_00096800- BB_00096803; BB_00096806- BB_00096807; BB_00096810- BB_00096813; BB_00096816- BB_00096825; BB_00096828- BB_00096831; BB_00096834- BB_00096835; BB_00096840- BB_00096841; BB_00096844- BB_00096847; BB_00096852- BB_00096853; BB_00096858- BB_00096861; BB_00096864- BB_00096865; BB_00096868- BB_00096869; BB_00096872- BB_00096877; BB_00096880- BB_00096885; BB_00096896- BB_00096897; BB_00096900- BB_00096901; BB_00096908- BB_00096909; BB_00096912- BB_00096913; BB_00096920- BB_00096923; BB_00096926-	
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		BB_00097159; BB_00097166- BB_00097177; BB_00097182- BB_00097187; BB_00097190- BB_00097191; BB_00097194- BB_00097205.	
Denise Denson	Expert Report of Denise Denson	FRE 802. Dkt. 431 at 4-5 (citing <i>Hunt v. City of Portland</i> , 599 F. App'x 620, 621 (9th Cir. 2013)) ("With respect to the expert's written report, we conclude that the report is hearsay to which no hearsay exception applies)).	SUSTAINED.
Denise Denson	3493, 3494 (Johnny Johnny Yes Papa + Wheels On The Bus - THE BEST Song for Children)	Not included in report	SUSTAINED, to the extent that Ms. Denson did not consider these in her expert report.
Denise Denson	Demonstratives for Denise Denson (copy provided at SendFile link)	DD8_12 – 403, the phrases "Less than 1% of all searches" and "each Super JoJo video" are misleading because Ms. Denson's report only relates to a subset of searches related to 62 of the least known, least popular Super JoJo videos, but this slide implies that her methodology encompassed all Super JoJo videos	SUSTAINED. Ms. Denson should be clear which videos and searches she means.
Denise Denson	Demonstratives https://www.youtube.com/c/PBSKIDS/videos https://www.youtube.com/c/nickjr/videos	Object to the extent not disclosed in reports or discovery.	SUSTAINED, to the extent that Ms. Denson did not consider these in her expert report.

	https://www.youtube.com/c/GabbyAndFriends/videos https://www.youtube.com/user/disneyjunior/videos https://www.youtube.com/c/Octonauts/videos https://www.youtube.com/c/bluesclues/videos https://www.youtube.com/c/BlueyOfficialChannel https://www.insider.com/most-popular-kids-videos-with-billions-in-views-2022-7#ask-any-parent-and-theyll-tell-you-the-wheels-on-the-bus-go-round-and-round-and-round-seemingly-forever-1 https://www.digitaltrends.com/computing/most-viewed-youtube-videos/		
Naiyong Yan	354, 366, 689, 1948, 1949, 1951, 1954, 1955 London Bridge is Falling Down Planning Document, This is the Way Planning Document, Baby Doctor Planning Document, No Monsters Planning Document, Safety Rules for Kids Planning Document, Hide and Seek Planning Document, I Can Take Care of Baby Planning Document	802	OVERRULED, subject to Babybus laying foundation.
Naiyong Yan	2359 Screenshots reflecting Moonbug's YouTube	802, 901	OVERRULED.

	copyright complaints issued against Super JoJo videos 3468 Screenshot reflecting Moonbug's YouTube copyright notices issued against Super JoJo videos (Dkt. 284-6)		
Naiyong Yan	3482 YouTube Made for Kids Video 3487 YouTube Made for Kids webpage 3492 YouTube Made for Kids presentation	802	OVERRULED.
Naiyong Yan	991 BabyBus' 7th Amended SROG Responses	802	SUSTAINED.
Naiyong Yan	2857 iQIYI Landing Page	802	OVERRULED, if authenticated.
Naiyong Yan	3429 Transperfect Declaration for authentication of TE2857	802	JUDGMENT RESERVED.
Naiyong Yan	Demonstrative 1 0:30 second clip taken while playing BabyBus' "Colors" app, available for download on Google Play and the Apple App store at https://apps.apple.com/us/app/colors-babybus/id973832743 Demonstrative 2	FRE 402/403; Not disclosed during discovery, see Order re Plaintiff's MIL, Docket No. 413 at 12-13. For example, Plaintiffs' interrogatory 12 asked for "Separately for each of the Accused Videos, identify the Bates Number of the video and all pre-existing works	OVERRULED.

1		Montage of Baby Panda clips taken from the following publicly accessible YouTube links with the specific timestamps of the clips noted in parentheses below. BabyBus is also concurrently serving the full length YouTube video available for download at the sendfile: https://www.youtube.com/watch?v=mY1hwb-Nxts (1:00-1:13) https://www.youtube.com/watch?v=3havAZG0cjk (0:52-1:05) https://www.youtube.com/watch?v=gtamCnC1pGIOops (1:37- 1:52) https://www.youtube.com/watch?v=IAPK7T3iNRc (3:50-4:15)	You referenced, reviewed, considered, or used in the design, development, and creation of the video”, and Interrogatory No. 10 as for For each Accused Video that You contend does not infringe any of the CoComelon Works, state Your full legal and factual basis for that contention, including identification of all Documents and witnesses that support such contention. The disclosed information was not disclosed in response to the above discovery requests.	
2		Demonstrative 3	It would be unfairly prejudicial to allow this information.	
3		Baby Panda Clip from Safety Rules for Kids (23:31-24:36), available at https://www.youtube.com/watch?v=kGejHIya9Hk ; TE1951, which BabyBus produced to Moonbug in 2022, contains a link to this video.		
4	Naiyong Yan	Demonstrative 4	FRE 402/403/106 – the “montage” is a created compilation of excerpts from various Super JoJo videos strung together in a misleading and incomplete way.	OVERRULED.
5		Montage of Super JoJo video clips from the following trial exhibits with the timestamps of the clips noted in parentheses: TE466 (0:17-0:28); TE478 (1:54-2:02); TE501 (0:13-0:20); TE509 (0:40-0:48); TE497 (2:11-2:16); TE616		

	(1:35-1:45); TE649 (1:24-1:39); TE762 (0:00-0:14); TE650 (1:04-1:14); TE584 (0:44-0:50); TE611 (0:42-0:54)		
Naiyong Yan	Demonstrative 5 BabyBus Videos Accused of Infringement Slide [pie chart at DD5_5]	FRE 402/403; mischaracterizes the trial testimony and record – Plaintiffs’ contend that every Super JoJo episode infringes; there are hundreds more compilations as made clear by the conceded videos; and this does not reference the foreign language episodes; and it’s not evidence	OVERRULED.
Naiyong Yan	Demonstrative 6 Slide re YouTube copyright notifications	FRE 402/403/106; mischaracterizes the record; does not address the compilation videos that contained these or the foreign language videos that remained up.	OVERRULED.
Naiyong Yan	Demonstrative 7 Doctor Check-up song side-by-side video of TE1149 and TE374 (no sound) Demonstrative 8 Doctor Check-up song Side-by-side video of TE1149 and TE374 (with sound) Demonstrative 9 Rock-a-bye Baby/Baby Baby Time to Sleep song side-by-side video of TE1187 and TE445 (no sound)	Lack of foundation; 602, 701; Mr. Yan repeatedly testified on direct that he did not do the comparison of CoComelon and Super JoJo videos, and the this question is better left to the experts; and it would be prejudicial to allow him to testify as to the comparisons he was unprepared to do on Plaintiffs’ direct. Tr. Tr. 7/7 (Yan) 489:14-490:21 (“Because I have not specifically did any comparison, therefore, I am not able to answer this question . . . Because	OVERRULED.

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Demonstrative 10	I have not done any comparison, therefore, with regard to whether there had been any copying or plagiarizing, I am not able to answer. This is an expert or a professional question . . .”) Tr. Tr. 7/11 (Yan) 630:13-18, 640:14-22.	
Rock-a-bye Baby/Baby Baby Time to Sleep song side-by-side video of TE1187 and TE445 (with sound).		
Demonstrative 11		
Sick song side-by-side video of TE1193 and TE458 (no sound)		
Demonstrative 12		
Sick song side-by-side video of TE1193 and TE458 (with sound)		
Demonstrative 13		
Swimming song side-by-side video of TE251 and TE375 (no sound)		
Demonstrative 14		
Swimming song side-by-side video of TE251 and TE375 (with sound)		
Demonstrative 15		
This is the way we brush our teeth song side-by-side video of TE1208 and TE451 (no sound)		
Demonstrative 16		
This is the way we brush our teeth song side-by-side video of TE1208 and TE451 (with sound)		
Demonstrative 17		

	<p>This is the way/yes yes playground song side-by-side video of TE1131 and TE451 (no sound)</p> <p>Demonstrative 18</p> <p>This is the way/yes yes playground song side-by-side video of TE1131 and TE451 (with sound)</p> <p>Demonstrative 19</p> <p>This is the way we get dressed song side-by-side video of TE1208 and TE461 (no sound)</p> <p>Demonstrative 20</p> <p>This is the way we get dressed song side-by-side video of TE1208 and TE461 (with sound)</p>		
Naiyong Yan	<p>Demonstrative 21</p> <p>Slide re TE16</p>	106/403; improper and misleading cropping of characters images, which the court previously sustained.	SUSTAINED.
Xiaohui Chen	<p>100 - Depo Ex. 100 (BB_00095041) - Text from Chen dated 04.21.2021</p> <p>["I recommend that in the future do not let people see so obviously that the reference video(s) are copied..."]</p>	802	JUDGMENT RESERVED. Babybus must overcome hearsay. Additionally, per the Court's prior ruling, the translation must use "video(s)" and eliminate the question mark at the end.
Xiaohui Chen	102 - Depo Ex. 102 (BB_00095036) - Text from Jianing Gao dated 04.2.2021	802	OVERRULED.
Xiaohui Chen	103 - Depo Ex. 103 (BB_00095034) - Text from Jianing Gao dated	802	OVERRULED.

	04.2.2021 - 即时通讯_钉钉_薛嘉纯- 488096522_聊天记录_群聊天记录_低幼频道IP设定-5937035973_1617362113		
Xiaohui Chen	370 - Yes Yes Table Manners Song	802	OVERRULED.
Xiaohui Chen	1793 - Super JoJo Character Development Document	FRE 802, 901 (foundation - screenshot of an unidentified spreadsheet, no metadata), 106.	OVERRULED if foundation.
Xiaohui Chen	1922 - Family Sketches	802	OVERRULED if foundation.
Xiaohui Chen	1923 - Family Inspiration Board	802	OVERRULED if foundation.
Xiaohui Chen	2665 - 1 Hour background music BabyBus YouTube Video Screenshot	Moonbug's MIL #4, Dkt. 413 at 12-13, FRE 802	JUDGMENT RESERVED. The Court ruled that: "At this juncture, the Court DENIES the motion in limine to prevent Moonbug from entering evidence not produced. Moonbug's general motion amounts to an admonition to follow the rules and leaves the Court no specific evidence to consider." Docket No. 413 at 12. The Court will admit if the exhibits were produced.
Xiaohui Chen	2666 - 1 Hour background music BabyBus YouTube Video	Moonbug's MIL #4, Dkt. 413 at 12-13, FRE 802	
Xiaohui Chen	2857 - Barber video screenshot	FRE 802, 901 (foundation - screenshot of an unidentified video)	JUDGMENT RESERVED. Babybus must identify and lay foundation.
Xiaohui Chen	3456 - Chinese New Year Doll	Not in Evidence	JUDGMENT RESERVED. Babybus must identify and lay foundation.

1	Xunjie Zhang	366 London Bridge is Falling Down Planning Document	802, 602	OVERRULED.
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3	Xunjie Zhang	1717 London Bridge Prop Planning Document	802	OVERRULED.
4		1718 London Bridge Storyboard		
5		1862 London Bridge Storyboard Feedback		
6		1883 Taekwondo Storyboard Feedback		
7		1889 Toilet Training Storyboard Feedback		
8		1932 I'm Going to the Toilet Choreography Document		
9		1948 Baby Doctor Planning Document		
10		1949 No Monsters Planning Document		
11		1954 Hide and Seek Planning Document		
12		1955 I Can Take Care of Baby Planning Document		
13		1956 Be Brave and Not Afraid of the Dark Planning Document		
14		1957 Elevator Safety Planning Document		
15		1968 Juice Planning Document		
16		1970 Taekwondo Planning Document		
17		1986 Ten Doughnuts Planning Document		
18		1992 How Many Did You Take? Planning Document		
19		2044 I'm a Little Teapot Planning Document		
20		2050 London Bridge is Falling Down Planning Document		
21		2056 If You're Happy and You Know it Planning Document		
22		2057 I'll Go To the Toilet Myself Planning Document		
23		2094 Monster Outside the Bus – Animation Script		
24		2093 Haunted House Animated Script Outline		
25				
26				
27	Xunjie Zhang	1793	802, Foundation (no date on document or metadata, no indication	OVERRULED.
28				

	Super JoJo Character Development Document	relates to Super JoJo), 106 (portion of document)	
Xunjie Zhang	1900 Childhood Development Research Spreadsheet	802, Foundation	
Xunjie Zhang	1902 2019 Young Children's Channel Production Planning Document	802, Foundation	
Xunjie Zhang	2117 BabyBus 2019 Project Approval	802, Foundation	
Xunjie Zhang	2363 Market Research Document	802, Foundation (no metadata)	
Xunjie Zhang	3482 YouTube Made for Kids Video 3487 YouTube Made for Kids webpage 3492 YouTube Made for Kids presentation	802	OVERRULED.
Xunjie Zhang	Demonstrative (concurrently provided at Sendfile link) [Chart with Super JoJo thumbnails and screenshots]	106, 901, 1006, 802, Foundation, Improper summary, no citations to underlying exhibits or documents, MIL 4 (Dkt. 413 at 12-13)	JUDGMENT RESERVED. Babybus must lay foundation and provide citations.

DEFENDANTS' OBJECTIONS TO PLAINTIFFS' WITNESS CROSS DISCLOSURES

The Court reviewed Defendants' objections and addresses them below.

Witnesses	Trial Exhibit No.	D's Objections	Court's Rulings
Denise Denson	Demonstrative provided to Defendants by email, citing Deposition Exhibits 195, 202 at 0:04-1:01, 203 and 204	Slide 1 – 402, 403, outside the scope of Ms. Denson's report and opinions offered	JUDGMENT RESERVED. Moonbug failed to but should provide a copy

		Slide 2 – 402, 403 Slide 3, 4 – 901, 402, 403, copyrights for other programs outside the scope of Ms. Denson’s report and opinions offered	of the demonstrative to the court.
Denise Denson	Ex. 197 - Depo Ex. 197 (BB_00069624) - Video Analytics - Youtube	402, 403, 802	OVERRULED, if foundation.
Denise Denson	Ex. 198 - Depo Ex. 198 - Video Analytics - Youtube	402, 403, 802	OVERRULED if foundation.
Naiyong Yan	Ex. 1308 - 2021-07-20 Kelly letter to YouTube.pdf [From Tyz lawyer Jennifer Kelly to YouTube re DMCA Notices]	901, 602, 802, 402, 403	OVERRULED.
Naiyong Yan	Ex. 329 - Depo Ex. 329 (DI 194-9 2023-01-04 - Decl of Xiaohui Chen ISO BB's Opposition to MB's MSJ)	402, 403, 802	JUDGMENT RESERVED (impeachment? Party opponent statement?).
Naiyong Yan	Ex. 330 - Depo Ex. 330 - Image of JJ	402, 403, 901	OVERRULED.
Naiyong Yan	Ex. 331 - Depo Ex 331 (BB_00029999) [Diagrams of Babybus family characters]	402, 403	OVERRULED if foundation.
Naiyong Yan	Ex. 332 - Depo Ex. 332 (Metadata to BB_00029999)	402, 403	
Naiyong Yan	Ex. 333 - Depo Ex. 333 (BB_00029997) - Opposites Song - CoCoMelon Nursery Rhymes & Kids Songs.mp4	402, 403	OVERRULED.

Naiyong Yan	Ex. 334 - Depo Ex. 334 (Metadata to BB_00029997)	402, 403	
Xunjie Zhang	Exs. 880-886, 933, 940, 944, 950 – Text Messages Sent to or by Xunjie Zhang	Exs. 882, 883, 886, 940 – 402, 403: These messages are inadmissible as found in the Court’s bellwether ruling (Dkt. No. 431 at 7) Ex. 880 – 402, 403, 106: this is not the actual DingTalk message, but a screenshot	JUDGMENT RESERVED. The Court previously ruled: “The Court sustains this objection. The unofficial investigation conducted by D’s employees would be prejudicial and misleading to a jury because the details are unclear as to the scope and standard of the unofficial internal investigation. Although the messages may show the present state of mind of D’s employees, there is no evidence these employees are in positions such that their knowledge is imputable to Babybus.” Docket No. 431 at 6. The burden is on Moonbug to show that the employees are in high enough positions to impute their statements to Babybus.
Xunjie Zhang	Exs. 5-6, 9, 15-16, 18-21, 23-24, 275, 351-357, 359-366, 688-693, 700, 703, 721, 803, 902, 1828, 1838 – Planning Documents for Super JoJo	402, 403, cumulative	OVERRULED if foundation.

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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**
16

17 MOONBUG ENTERTAINMENT
18 LIMITED and TREASURE STUDIO, INC.,

19 Plaintiffs,

20 v.

21 BABYBUS CO., LTD and BABYBUS
22 (FUJIAN) NETWORK TECHNOLOGY
CO., LTD,

23 Defendants.
24
25
26
27
28

Case No: 3:21-cv-06536-EMC

**PLAINTIFFS' OBJECTIONS AND
COUNTER-DESIGNATIONS TO
DEFENDANTS' DEPOSITION
DESIGNATIONS FOR JULY 17, 2023**

Plaintiffs Moonbug Entertainment Limited and Treasure Studio, Inc. (collectively “Moonbug”) submit the below objections and counter designations to Defendants’ direct examination disclosures for witnesses to be called by Defendants by deposition on July 14 and/or 17, 2023. The parties have continued to meet and confer after substantial modifications to Defendants’ designation for these witnesses, and Defendants agree that Plaintiffs’ objections are not untimely in light of those modifications. Plaintiffs have included in this document *only* exhibits or designations for which there are outstanding objections, but has provided its full counter designations to Defendants. Plaintiff can provide its counter designations to the Court if helpful as well.

Pursuant to guidance from the Court, Moonbug’s objections here relate solely to threshold admissibility of these exhibits and designations. Plaintiffs have highlighted cells where a ruling is requested by the Court. Moonbug reserves the right to object to exhibits identified for witnesses the deposition designations on a 602 or 901 basis to the extent that the deposition testimony does not sufficiently provide foundation or authentication of the document.

I. PATRICK REESE (BY DEPOSITION)

Plaintiffs have met and conferred with Defendants and have agreed to reserve any objections as to admissibility of exhibits introduced with this witness on a 602 or 901 basis to the extent that the deposition testimony does not sufficiently provide foundation or authentication of the document. Regarding deposition testimony, Plaintiffs provided counter-designations and, with those counter-designations included, has no objections to raise with the Court.

II. SAMREEN GHANI (BY DEPOSITION)

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs’ Objections
	TE 3067 – MoonBug YouTube Algorithm Change Presentation	402, 403 (misleading because CoComelon was not a MB property in 2019)

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
	TE 3103 – (Depo Ex. 044 – Jon Benoy) Moonbug Entertainment- Away Day 2021 Revenue	FRE 401, 403 (misleading to the extent offered to discuss Moonbug’s properties apart from CoComelon)
	TE 3150 – (Depo Ex. 033 – Jon Benoy) Email thread–Jon Benoy to Andy Yeatman, CC: Alfie Chubb, John Robson, Rene Rechtman, Samreen Ghani, Nicolas Eglau, manda@moonbug.com	402, 403
	TE 3470 - J. Benoy Email Subject Re: Summary – ahead of Raise	402, 403
Defendants' Designations		Objections
<p>11:24-12:1</p> <p>Moonbug was acquired by Candle Media in 2021; is that right?</p> <p>A. Yes.</p>		402, 403 (post-lawsuit acquisition information unrelated to CoComelon). <i>See</i> Court’s ruling on redaction of Ex. 1020, July 5, 2023 Trial Transcript at 2:21-22.
<p>13:3-7</p> <p>Q. What was the cash value of those shares that you did own at the time that Candle Media acquired Moonbug?</p> <p>A. I would say approximately around \$25 million.</p>		402, 403 (post-lawsuit personal acquisition compensation information unrelated to CoComelon or Defendants’ infringement of it). <i>See also</i> Court’s

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
		ruling on redaction of Ex. 1020, July 5, 2023 Trial Transcript at 2:21-22.
<p>55:23-56:9</p> <p>Q. And he was the COO, right?</p> <p>A. John Robson was the COO. That –</p> <p>Q. And is the COO today, correct?</p> <p>A. Yes, yes.</p> <p>Q. And what's – what are his responsibilities as the COO?</p> <p>A. He is the chief operating officer responsible for all of operations within YouTube – within Moonbug.</p> <p>Q. And then Alfred Chubb is listed here as well, yes?</p> <p>A. Yes, he is also on the e-mail.</p>		402, 403
<p>56:13-17</p> <p>Q. And you said he was in charge of M&A?</p> <p>A. Yes.</p> <p>Q. But I take it M&A decisions would involve Mr. Robson and Mr. Rechtman as well?</p> <p>A. Yes, they would</p>		402, 403
<p>57:15-20</p> <p>Q. Let me – let me show you what's been marked as trial Exhibit 3067.</p>		402, 403 (irrelevant and misleading, made prior to

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
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And if you could please let me know when you have trial Exhibit 3067.

A. Sure.

Yes, I have it now.

acquisition of CoComelon)

68:8-14

Q. Did you have any understanding in your role as CFO that Moonbug was ever interested in acquisitions in Asia?

A. Yes.

Q. When?

A. I think in the – as far as I recall, in the initial – initial years.

402, 403

68:22-25

Q. But there were aspects of the Asian market that were appealing to Moonbug for potential acquisition, yes?

A. Yes.

402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)

69:7-11

Q. This document is identifying Asia as part of an investment strategy for acquisitions in 2019, yes?

A. Yes, over here it's saying recommendations to the business.

402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
<p>69:20-70:1</p> <p>Q. And, obviously, a reason for being interested in the Asian market is the number of viewers because viewership drives advertising drives revenue, right?</p> <p>A. Viewership drives advertising drives revenue, yes. But also in which geography or which market?</p>		<p>402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)</p>
<p>72:8-11</p> <p>Q. Ms. Ghani, do you recognize Exhibit 3087 as the board presentation that was the attachment to your e-mail, Exhibit 3086?</p> <p>A. I believe that to be the case, yes.</p>		<p>402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)</p>
<p>74:10-15</p> <p>Q. If you turn, please, to the page with production number MB280630, it's page 6.</p> <p>A. Page 6.</p> <p>Q. With the heading "Strategy and Objectives"?</p> <p>A. Yep. Yes, I can see that.</p>		<p>402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)</p>
<p>75:13-76:2</p> <p>Q. Okay. And up above you can see it says "Team."</p> <p>A. Yes.</p> <p>Q. And it says "EMEA Lead." Do you see that?</p>		<p>402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)</p>

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
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A. Yes.

Q. And what does that refer to?

A. Europe, Middle East and Africa.

Q. And below that it says, "Explore Asian footprint." Do you see that?

A. Yes.

Q. And that was one of Moonbug's plans at this time, yes?

A. Yes.

Q. It was a key performance indicator, yes?

A. Yes.

76:15-77:1

Q. Because there's a lot of people in Asia, meaning a lot of eyeballs, meaning a lot of potential viewership, right?

A. Which leads – yes. And so the Asian lead here is Nicholas Eglau who heads the SVOD distribution in EMEA. So this was –

(Reporter requests clarification.)

THE WITNESS: In EMEA, Europe, Middle East and Africa. So the two points are together, which is we have hired an Asian lead – EMEA lead who is planning a trip and visiting Asia is – as far as I can recall, that is what it is saying.

402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)

91:18-23

402, 403

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
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Q. When did you first become aware of BabyBus?

A. I – as far as I can recall, sometimes last year.

Q. And you mean 2022?

A. Yes.

94:15-95:8

Q. Do you know who the Jeons are?

A. They – yes.

Q. And who are they?

A. The initial creators of CoComelon, the IP.

Q. Have you ever met the Jeons?

A. No, I haven't.

Q. Have you ever had any communications directly with the Jeons?

A. No, I did not have any direct communications with them.

Q. So you've never e-mailed them or spoken to them on the phone, nothing direct with them?

A. No.

Q. And that's true for all the members of the Jeon family who were involved with CoComelon?

A. Yes.

Q. So you don't have any firsthand knowledge about the founding of Treasure Studios?

402, 403, 602, 802

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
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A. No.		
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96:4-8		402, 403, 602
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Q. But the specifics that led Treasure Studios to come up with Baby JJ and CoComelon, that's not something you're familiar with, right?

A. No, I'm not familiar with the – with that aspect of Treasure Studios.

98:4-9		402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)
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Q. Ms. Ghani, do you recognize Exhibit 3150 as an e-mail that you received from Jonathan Benoy on or about January 1, 2020?

A. Yes, I can see it's an e-mail. Can you just give me a couple of minutes? I just want to read through it, please.

98:12-99:6		402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)
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Q. Did your review of Exhibit 3150 refresh your recollection in any way?

A. Yes.

Q. How so?

A. So, I mean, this is a typical process that we run when we were putting together – when we have an active investment conversations of putting together a business model, so this is a discussion around the business case that was being put together for CoComelon.

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
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Q. And you recall being a participant in that effort, yes?

A. Yes.

Q. And what was Mr. Benoy's role as part of the acquisition?

A. Jon headed the YouTube business. I mean, he still is responsible for the YouTube revenues, so he would give insight into what, from his perspective, the YouTube projections should be for any such business modeling.

106:3-7

Q. Ms. Ghani, do you recognize Exhibit 3470 as an e-mail that you received from Mr. Benoy on or about February 6, 2020?

A. I can see from this exhibit that I'm copied on an e-mail from Jon to Alfred Chubb.

402, 403 (irrelevant and misleading, made prior to CoComelon acquisition)

108:3-7

Q. There's a reference to DD. Do you see that?

A. Yes.

Q. That's due diligence, right?

A. Yes, that's correct.

402, 403

108:22-109:2

Q. Okay. So internal M&A team, that's the team headed by Mr. Chubb, yes?

402, 403

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
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A. Yes, that's correct.

Q. But I can take it Mr. Robson and Mr. Rechtman were also involved in due diligence efforts?

109:4-10

THE WITNESS: M&A would lead their due diligence efforts and then would present their findings to the rest of the –

BY MR. STONE:

Q. Read your reports – pardon me. I didn't mean to cut you off.

A. To the rest of the management team, so...

402, 403

149:1-4

Q. And here the Jeons were warranting that they weren't aware of any infringement or potential infringement of the purchased intellectual property rights, yes?

402, 403, 602, 802

149:7

THE WITNESS: I suppose as written.

402, 403, 602, 802

152:6-11

Q. And do you recognize Exhibit 3103?

A. It is a – yes, it's an off-site deck prepared end of 2020.

Q. And did you participate in the 2021 away day in December of 2020?

402, 403 (misleading to the extent offered to discuss Moonbug's properties apart from CoComelon)

Samreen Ghani (by deposition)	Designations/Exhibits	Plaintiffs' Objections
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A. I think I – yes, I – I think I did.

158:12-17

Q. What about the next page, page 22, does that refresh your recollection in any way about Moonbug's Asia strategy at the end of 2020?

A. Only – only to the extent of how we were looking to grow our, you know, our audience platforms in Asia.

402, 403 (misleading to the extent offered to discuss Moonbug's properties apart from CoComelon)

Respectfully submitted,
TYZ LAW GROUP PC

Dated: July 16, 2023

/s/ Ciara McHale
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